

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH L. MIZZONI,

Plaintiff,

v.

ATWOOD et al.,

Defendants.

3:15-cv-103-RCJ-VPC

ORDER

I. DISCUSSION

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections (“NDOC”), has submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and has filed an application to proceed *in forma pauperis*. (ECF No. 1-1, 1-2, 1-3, 1-4, 5). The matter of the filing fee shall be temporarily deferred.

The Court dismisses Plaintiff’s complaint in its entirety, without prejudice, with leave to amend. It appears that Plaintiff is attempting to merge several complaints filed previously in state court into one complaint in federal court. Plaintiff annotates his state court complaints and states who is dismissed and who he wants to proceed against. (See ECF No. 1-1 at 2, ECF No. 1-2 at 47, ECF No. 1-3 at 28, ECF No. 1-4 at 30). The Court will not piecemeal Plaintiff’s state court complaints together to determine which defendants and which claims Plaintiff wants to proceed on in this action. Plaintiff must file one comprehensive complaint which contains all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.

Plaintiff is granted leave to file an amended complaint to cure the deficiencies of the complaint. If Plaintiff chooses to file an amended complaint he is advised that an amended complaint supersedes the original complaint and, thus, the amended complaint must be

complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). Plaintiff’s amended complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the amended complaint on this Court’s approved prisoner civil rights form and it must be entitled “First Amended Complaint.”

The Court notes that if Plaintiff chooses to file an amended complaint curing the deficiencies of his complaint, as outlined in this order, Plaintiff shall file the amended complaint within 30 days from the date of entry of this order. If Plaintiff chooses not to file an amended complaint, the Court shall dismiss the case without prejudice.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that a decision on the application to proceed *in forma pauperis* (ECF No. 5) is deferred.

IT IS FURTHER ORDERED that the Clerk of the Court shall file the complaint (ECF No. 1-1, 1-2, 1-3, 1-4).

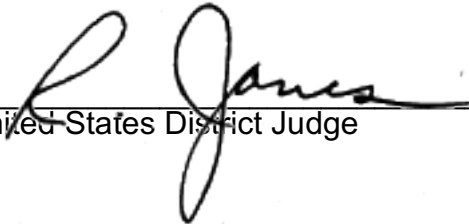
IT IS FURTHER ORDERED that the complaint is dismissed in its entirety, without prejudice, with leave to amend.

IT IS FURTHER ORDERED that if Plaintiff chooses to file an amended complaint curing the deficiencies of his complaint, as outlined in this order, Plaintiff shall file the amended complaint within 30 days from the date of entry of this order.

IT IS FURTHER ORDERED that the Clerk of the Court shall send to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a copy of his original complaint (ECF No. 1-1, 1-2, 1-3, 1-4). If Plaintiff chooses to file an amended complaint, he must use the approved form and he shall write the words “First Amended” above the words “Civil Rights Complaint” in the caption.

1 IT IS FURTHER ORDERED that if Plaintiff fails to file an amended complaint curing the
2 deficiencies outlined in this order, this action shall be dismissed without prejudice.

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4 Dated this 16th day of June, 2015.

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7 United States District Judge
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